Applicant respectfully requests further examination and reconsideration in view of the instant response. The claims remaining in the present application are Claims 1, 3-9, 11-16, 18-23 and 25-30. Claims 1, 3-9, 11-16, 18-23 and 25-30 are rejected. Claim 5 is amended herein to correct a clerical error. No new matter has been added.

## CLAIM REJECTIONS – 35 U.S.C. §103(a)

Claims 1, 3-9, 11-16, 18-23 and 25-30

The instant Office Action states that Claims 1, 3-9, 11-16, 18-23 and 25-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fletcher et al. (US 6,085,243), hereinafter referenced as "Fletcher," in view of Gulliford et al. (US 6,618,355), hereinafter referenced as "Gulliford." Applicant respectfully submits that the embodiments of the present invention as recited in Claims 1, 3-9, 11-16, 18-23 and 25-30 are patentable over Fletcher in view of Gulliford for at least the following rationale.

Claim 1 recites an embodiment of the present invention (emphasis added):

A method of managing traffic in a first set of nodes of a computer network having first set of nodes and a second set of nodes comprising:
determining a source associated with an amount of network traffic over the first set of nodes which **exceeds a threshold**, the source being outside a group of network elements assigned to the first set of nodes; and
automatically displaying an indication of the source in response to determining the source, wherein determining the source includes:
determining top talker sources over **the first VLAN** and **a second VLAN**;
determining **VLAN identifiers** for the top talker sources; and

> displaying the indication if the VLAN identifier of at least one of the top talker sources is not the same as the VLAN identifier of a VLAN being tested.

Independent Claims 9, 16 and 23 recite similar embodiments. Claims 3-8, 11-15, 18-22 and 25-30 that depend from independent Claims 1, 9, 16 and 23, respectively, also include these embodiments.

"As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries" including "[a]scertaining the differences between the claimed invention and the prior art" (MPEP 2141(II)). "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious" (emphasis in original; MPEP 2141.02(I)). Applicant notes that "[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art" (emphasis added; MPEP 2141(III)).

Moreover, Applicant respectfully notes that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention" (emphasis in original; MPEP 2141.02(VI); *W.L. Gore &*

*Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

First, Applicant respectfully submits that Fletcher does not suggest or teach and is silent in regards to "determining a source associated with an amount of network traffic over the first set of nodes which exceeds a threshold," as claimed (emphasis added). Applicant understands Fletcher to disclose "on a regular, periodic basis the dRMON agents forward their statistics and/or captured packets to a dRMON proxy or collector, existing somewhere on the WAN/LAN" (emphasis added; col. 6, lines 10-14). Applicant does not understand "statistics and/or capture packets" to disclose "determining a source associated with an amount of network traffic over the first set of nodes which exceeds a threshold," as claimed (emphasis added). Therefore, Applicant respectfully submits that Fletcher does not suggest or teach and is silent in regards to "determining a source associated with an amount of network traffic over the first set of nodes which exceeds a threshold," as claimed (emphasis added).

Moreover, Gulliford does not overcome the deficiencies of Fletcher. Applicant understands Gulliford to teach or suggest a "distributed decentralized network architecture" (abstract). In particular, Gulliford does not teach or suggest "determining a source associated with an amount of network traffic over the first set of nodes which exceeds a threshold," as claimed (emphasis added).

Second, Applicant respectfully submits that Fletcher does not suggest or teach and is silent in regards to "determining top talker sources over the first VLAN and a second VLAN," as claimed (emphasis added). Applicant understands Fletcher to disclose gathering information associated computers on a single LAN. In particular, Applicant understands Fletcher to disclose a "method and apparatus for distributed remote network monitor (dRMON) in a LAN" (emphasis added; col. 5, lines 65-66). Applicant does not understand a single LAN (e.g., Fig. 1) to disclose a VLAN, let alone, a second VLAN.

Applicant notes that Fletcher discloses, "[i]n a default mode, ESs in the same multicast domain are treated by a proxy as though they are on one LAN segment. This approach allows other vendor's RMON applications to interact with the proxy as though it were a prior art probe; however, when used with enhanced dRMON Managers, the user would be provided the ability to combine ports and hosts in order to create Virtual LAN (VLAN) definitions which would cause the monitoring function to behave as though all selected hosts were on the same LAN segment being served by the same RMON probe. A dRMON collector in this embodiment could create and maintain several such views with each appearing as one interface to conventional RMON Management applications" (emphasis added; col. 6, lines 27-40). However, Applicant does not understand the reference to VLAN definitions related to selected hosts to disclose "determining top talker sources over the first VLAN and a second VLAN," as claimed (emphasis added).

Also, Applicant understands Fletcher to disclose "on a regular, periodic basis the dRMON agents forward their statistics and/or captured packets to a dRMON proxy or collector, existing somewhere on the WAN/LAN" (emphasis added; col. 6, lines 10-14). Accordingly, Applicant does not understand "statistics and/or capture packets" to disclose "determining top talker sources over the first VLAN and a second VLAN," as claimed (emphasis added). Therefore, Applicant respectfully submits that Fletcher does not suggest or teach and is silent in regards to "determining top talker sources over the first VLAN and a second VLAN," as claimed (emphasis added).

Moreover, Gulliford does not overcome the deficiencies of Fletcher. Applicant understands Gulliford to teach or suggest a "distributed decentralized network architecture" (abstract). Applicant respectfully submits that Gulliford teaches away from "determining top talker sources over the first VLAN and a second VLAN," as claimed (emphasis added). Applicant understands Gulliford to disclose "[t]he data services provided are preferably oriented to work with existing subscriber equipment (e.g., LANs, WANs and telephony devices)" (col. 5, lines 6-8). The only reference to a VLAN is described in the prior art, that is explicitly taught away from. In particular, [e]ven subscribers using Virtual Local Area Network (VLAN) service between nearby locations (not shown) must still send all their traffic (billing information and data) to the POP prior to routing the traffic to the final destination. This required routing (i.e., all traffic must flow through a central point) results in higher infrastructure costs for non-centralized traffic flows" (col. 4, lines 51-57). Accordingly, Applicant respectfully submits that

Gulliford teaches away from "determining <u>top talker sources</u> over the <u>first VLAN</u> and a <u>second VLAN</u>," as claimed (emphasis added).

Additionally, the instant Office Action asserts that "Gulliford discloses a first set of nodes and second set of nodes being a VLAN (Fig. 3, col 18 lines col 1 lines 30-45; col 6 line 61 – col 7 line 5; col 7 lines 19-25)" (page 3). Applicant respectfully requests further clarification of how "Fig. 3, col 18 lines col 1 lines 30-45; col 6 line 61 – col 7 line 5; col 7 lines 19-25" disclose a VLAN.

Third, Applicant respectfully submits that Fletcher does not suggest or teach and <u>is silent</u> in regards to "determining <u>VLAN identifiers</u> for the top talker sources," as claimed (emphasis added). As presented above, Fletcher does not suggest or teach and is silent to top talker sources and a first and second VLAN. Accordingly, Fletcher does not suggest or teach and <u>is silent</u> in regards to "determining <u>VLAN identifiers</u> for the top talker sources," as claimed (emphasis added).

Moreover, Gulliford does not overcome the deficiencies of Fletcher. Applicant understands Gulliford to teach or suggest a "distributed decentralized network architecture" (abstract). In particular, Gulliford does not teach or suggest "determining <u>VLAN identifiers</u> for the top talker sources," as claimed (emphasis added).

Fourth, Applicant respectfully submits that Fletcher does not suggest or teach and <u>is silent</u> in regards to "<u>displaying the indication <b>if</b></u> the VLAN identifier of at least one

of the top talker sources is not the same as the VLAN identifier of a VLAN being tested," as claimed (emphasis added). Applicant understand Fletcher to disclose (1) "monitoring and reporting of data traffic statistics in a local area network (LAN)" (emphasis added; col. 4, lines 14-15), (2) "on a regular, periodic basis the dRMON agents forward their statistics and/or captured packets to a dRMON proxy or collector, existing somewhere on the WAN/LAN" (emphasis added; col. 6, lines 10-14) and (3) "[r]emote end system and network management generally takes place by having an ES, such as 50a, communicate management information packets (MIPs) to a console such as 64" (emphasis added; col. 16, lines 3-6). Applicant does not understand (1) monitoring and reporting, (2) forwarding statistics and/or captured packets, or (3) communicating MIPs as "displaying the indication," as claimed (emphasis added).

Moreover, even if Fletcher does disclose automatically displaying an indication of the source, Fletcher does not disclose "displaying the indication if the VLAN identifier of at least one of the top talker sources is not the same as the VLAN identifier of a VLAN being tested," as claimed (emphasis added).

Moreover, Gulliford does not overcome the deficiencies of Fletcher. Applicant understands Gulliford to teach or suggest a "distributed decentralized network architecture" (abstract). In particular, Gulliford does not disclose "displaying the indication if the VLAN identifier of at least one of the top talker sources is not the same as the VLAN identifier of a VLAN being tested," as claimed (emphasis added).

Applicant respectfully submits that the combination of Fletcher and Gulliford, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Therefore, Applicant respectfully submits that the combination of Fletcher and Gulliford does not render obvious the claimed embodiments of the present invention as recited in independent Claims 1, 9, 16 and 23, that these claims overcome the rejection under 35 U.S.C. § 103(a), and that these claims are thus in a condition for allowance. Applicant respectfully submits that the combination of Fletcher and Gulliford also does not render obvious the additional claimed features of the present invention as recited in Claims 3-8, 11-15, 18-22 and 25-30 that depend from independent Claims 1, 9, 16 and 23, respectively. Therefore, Applicants respectfully submits that Claims 3-8, 11-15, 18-22 and 25-30 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on an allowable base claim.

## CONCLUSION

In light of the above remarks, Applicant respectfully requests reconsideration of the rejected claims.

Based on the arguments presented above, Applicant respectfully asserts that Claims 1, 3-9, 11-16, 18-23 and 25-30 overcome the rejections of record, and therefore Applicant respectfully solicits allowance of these claims.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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